

Request for a stay of execution No. 5/2026

G. M.-M.

v.

**Secretary General
of the Council of Europe**

ORDER ON A STAY OF EXECUTION

30 April 2026

INTRODUCTION

1. The present request concerns the alleged illegality of the decision not to select the applicant for the assessment stage following his application to an external recruitment procedure.

THE FACTS

2. The applicant is a staff member employed with the Council of Europe since 2002 and currently occupying a job at grade A3 under an indefinite term contract.

3. On 2 March 2026 vacancy notice No. 1246/2025 was published. It concerned an external recruitment procedure for the A4 job of Deputy to the Head of Secretariat of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly. One of the requirements to apply was that an applicant must *“have at least 10 years of relevant professional experience acquired in different legal fields falling under the remit of the committee, in particular the system of the European Convention on Human Rights or other relevant Council of Europe treaties”*. The applicant applied for that position.

4. By an email dated 30 March 2026, the Directorate of Human Resources (“DHR”) informed the applicant that he had not been selected for the assessment stage. The email indicated in this connection that *“[the DHR had] received too many applications in proportion to the number of jobs we have to propose and had to narrow down the list of applications selected for the next stage in order to keep only the best profiles”*.

5. On 14 April 2026 the applicant challenged the decision not to select him for the assessment stage of the recruitment procedure in question (hereafter “the contested decision”), by addressing a formal complaint to the Secretary General. This procedure is still pending.

PROCEEDINGS

6. On 16 April 2026, the applicant applied to the Chair of the Administrative Tribunal for a stay of execution, in accordance with Article 12 of the Statute of the Tribunal and Article 14.8 of the Staff Regulations. The applicant is seeking the stay of execution of the ongoing external recruitment procedure for vacancy notice No. 1246/2025 and, in the alternative, admission to the assessment stage.

7. On 22 April 2026 the Secretary General submitted his observations on the request for a stay of execution.

8. On 27 April 2026 the applicant submitted his observations in reply.

9. On 28 April 2026 the Secretary General submitted his rejoinder.

THE APPLICABLE LAW

I. REGULATORY FRAMEWORK

10. The relevant provisions of the regulatory framework read as follows:

- as regards job candidates’ access to the complaints and appeals procedure:

Staff Regulations
Article XIV – Grievance procedures

14.3 Staff members who consider that an administrative decision is prejudicial to their interest and conflicts with their terms and conditions of appointment, or with any pertinent provisions of the Staff Regulations, Rules, Instructions or Policies, may initiate the process of management review, allowing for the correction of an improper decision or, where a decision was properly taken, its confirmation along with a reasoned explanation. The modalities of the review shall be set out in Staff Rules adopted by the Secretary General.

14.4 After pursuing management review, staff members who are not satisfied with the outcome thereof may lodge a formal complaint with the Secretary General against the contested administrative decision adversely affecting them, provided that they have a direct and existing interest in doing so. The modalities of the complaints procedure shall be set out in Staff Rules adopted by the Secretary General.

(...)

14.10 In addition to staff members, the complaints and appeals procedure shall be open mutatis mutandis to:

(...)

14.10.3 job candidates, insofar as their complaint or appeal concerns irregularities of the selection process directly affecting them; (...)

- as regards the applicable procedure in case of a request for a stay of execution:

Staff Regulations
Article XIV – Grievance procedures

14.8 Requesting a management review, filing a complaint or lodging an appeal shall not suspend the contested administrative decision. However, the staff member may file a request with the Administrative Tribunal to suspend the implementation of a contested administrative decision in cases of particular urgency where the implementation of the administrative decision would cause serious and irreparable damage to the staff member.

Statute of the Administrative Tribunal
Article XII - Stay of execution

12.1 When a request for a stay of execution is filed under Article 14.8 of the Staff Regulations, the Secretary General shall, unless there are duly justified reasons, suspend the execution of the contested administrative decision until the Tribunal has ruled on the request.

12.2 The Chair, on behalf of the Tribunal, shall rule within 15 days on requests for a stay of execution, by giving a reasoned decision, which may be subject to certain conditions. The decision shall not rule on the merits of the appeal or the complaint. Decisions on a stay of execution shall not be subject to appeal.

- as regards participation of job candidates in external recruitment procedures:

Staff rule on entry into service

480. ADVERTISING VACANCIES

480.1 When a vacancy shall be filled through recourse to a recruitment procedure, a vacancy notice shall be advertised.

(...)

480.3 A vacancy notice shall include, in addition to the conditions for appointment referred to in Article 410, information relevant to the job inter alia the following:

480.3.1 job description;

480.3.2 requisite qualifications, competencies and experience;

480.3.3 the knowledge of languages required;

480.3.4 outline of the selection process;

(...)

490. RECRUITMENT PROCEDURES

490.1 Candidates who meet the criteria set out in the Staff Regulations and Staff Rules and the vacancy notice and whose applications demonstrate the best profile in terms of qualifications, experience and motivation shall be shortlisted for the recruitment evaluation process. (...)

- as regards internal recruitment procedures:

Staff rule on career development

560. INTERNAL COMPETITION PROCEDURE

(...)

560.2 Eligible candidates who meet the criteria set out in the vacancy notice and whose applications demonstrate the best profile in terms of qualifications, experience and motivation shall be shortlisted.

(...)

II. THE PARTIES' POSITIONS

11. In his application to the Tribunal, the applicant requests the Chair to suspend the execution of the decision not to include him on the shortlist for the assessment stage of the external recruitment procedure No. 1246/2025.

12. He submits that the contested decision was an abuse of discretion in violation of the Staff Regulations, which provide for an external recruitment procedure only for entry into service appointments at A1/A2 level and for appointments to grades A6 and A7, but not for appointments at A4/A5 level. He argues that the Staff Regulations do not foresee external recruitment for A4/A5 jobs and such profound deviation from the Staff Regulations would require the explicit change of the latter. The applicant refers in this connection to the Staff Committee's complaint challenging the legality of the new practice adopted by the Organisation in relation to the publication of vacancy notices for A4 and A5 jobs, of which staff members were made aware via a posting of an intranet news on 10 December 2025

13. The applicant maintains that the externalisation of the appointment procedures at A4/A5 level reduces the prospects of promotion for serving A grade staff members and allows a completely arbitrary selection process. He submits that he did not receive objective reasons for the contested decision but only a mere reference to the high number of job applications. In this regard, he also notes that when the internal competition for the same vacancy was held in 2021, he was shortlisted for the interview. Since then, his experience has become even richer.

14. With regard to the condition of particular urgency, the applicant maintains that should the recruitment procedure not be immediately suspended, a candidate may be appointed before the grievance procedure initiated by the applicant to annul the selection procedure and re-advertise the job in question is concluded, at which point it would become impossible to reinstate his candidature and to give full effect to a judgment upholding his appeal.

15. He maintains that appointment of another candidate to the contested position will deprive him irreversibly of the opportunity to be fairly considered for that position, if his appeal is successful. In his opinion, it will constitute serious and irreparable harm as the loss of a unique career opportunity and professional advancement could not be compensated by money or other remedies.

16. The applicant therefore requests a stay of execution of the recruitment procedure until the grievance procedure is formally concluded. Should his request for a stay of execution be rejected, he requests to be admitted to the assessment stage of the ongoing recruitment procedure.

17. For his part, the Secretary General submits that the applicant cannot allege to have been caused serious and irreparable damage, as the external recruitment procedure in question has been conducted in full compliance with the applicable rules. Pursuant to paragraph 490.1 of the Staff Rule on entry into service (cited above, see paragraph 10), in order to be shortlisted for the evaluation process, candidates must, on the one hand, meet the criteria set out in the vacancy notice and, on the other hand, demonstrate the best profile in terms of qualifications, experience and motivation. This rule applies equally to internal and external candidates.

18. The Secretary General clarifies that a total of 133 job applications were received, 21 of which were submitted by staff members. All applications were carefully examined and reviewed several times, including by managers of the hiring entity, who are best placed to know what profiles are required for the job in question. Thirteen candidates whose applications demonstrated the best profile in terms of qualifications, experience and motivation were shortlisted for the recruitment evaluation process; twelve of these candidates were staff members. The selected candidates later participated in a technical assessment, including an interview with a panel comprising four managers of the entity concerned. Three candidates have been selected for an evaluation of managerial and interpersonal competencies by an external service provider. The Secretary General notes that the applicant's situation is not unique as there were many candidates with interesting professional experience which nevertheless is not directly relevant to the activities of the hiring entity.

19. The Secretary General maintains that the assessment process ensures the quality of recruitment by conducting an in-depth technical evaluation of the candidates' professional and technical expertise and required competencies by a panel of four managers. While it is necessary to allow for the possibility for these managers, who have other important responsibilities, to focus on such evaluation for an entire two days (as was the case in the present case), this also places a significant burden on internal resources. This is why the evaluation process must focus solely on the best candidates. In this case, this meant shortlisting for the assessment stage the 13 best candidates, including 12 staff members. If the applicant had been shortlisted despite not being among the candidates with the best profiles, this would have entailed that all candidates in the same situation, who did not formally meet the criterion of having sufficient relevant professional experience, would also have to be shortlisted. This would have made the conduct of the technical interviews merely impossible. Given their format, increasing the number of shortlisted candidates to several dozen would have hindered the technical assessment process while also undermining the efficiency, relevance and quality of the recruitment procedure. Furthermore, this would not have been in the interest of the candidates concerned, as the technical assessment is designed to evaluate their professional and technical expertise, and in the absence of directly relevant professional experience, this assessment would simply be beyond their reach. Therefore, it was entirely justified and well-founded to decide not to select the applicant for the assessment stage.

20. The Secretary General maintains that the Organisation has wide discretion in determining the modalities and conduct of recruitment procedures as the Administration is qualified to ascertain and assess the Organisation's operational needs and the staff's professional abilities.

21. In the circumstances of the present case, the Secretary General emphasises that the applicant had a possibility to apply for the job and that his application was carefully considered. The decision not to shortlist him does not deprive him of any right, since there is no right to be shortlisted. Thus, the applicant does not prove that he has suffered any serious prejudice.

22. But even assuming the existence of such prejudice, it would not be of such a nature that it could not be remedied by means of compensation, as provided for in Article 14.2 of the Statute of the Administrative Tribunal. Consequently, the damage incurred cannot be considered irreparable.

23. The Secretary General further argues that, if the applicant's request, with very general claims, were to be accepted, a stay of execution would become the rule for all recruitment procedures in which a candidate challenges the decision of not being selected to the next stage of such procedure. This could lead to the disruption of the smooth running of all recruitment procedures, while the Organisation is striving to make the selection process more efficient and rapid. The rigorous assessment tailored to a specific post aims at ensuring that only the best candidates are selected at each stage of the procedure. Granting the request for a stay of execution in the present case would prevent the Organisation from timely filling in a strategically important position which would therefore remain vacant until the litigation is completed. In order to avoid the adverse consequences of such a situation, the only option available to the Secretary General would be to admit the applicant to the assessment stage of the recruitment process, even though he is not among the best candidates. This would entail a breach of the principle of equal treatment of candidates.

24. According to the Secretary General, admitting the applicant in the above circumstances to the assessment stage would also be in breach of the principle of legal certainty as it would allow any unsuccessful candidate to apply for a stay of execution, thereby enabling them to suspend the recruitment process or force their inclusion in the assessment process. The present application for a stay of execution is evidence of this, as it follows on from the recent [order issued by the Chair on 2 March 2026](#) on the request for a stay of execution filed by S. G. (II), No. 2/2026.

25. The Secretary General reiterates that in previous cases the implications of a decision to suspend a competition and related recruitments were considered important and serious by the Chair and were taken into account in the decision to refuse to grant stays. As emphasised by the Chair in the [order of 24 November 2011](#) (requests for a stay of execution Nos. 38-42/2011, Yuksek (II) and Others v. Secretary General of the Council of Europe), the need to avoid the adverse consequences for the Organisation of a suspension of the competition requires that, in the balance of the interests of the Organisation and the interests of the applicants, the former should prevail over the latter (see paragraphs 32 and 33 of the Order of 24 November 2011). The same conclusion should apply in the present case.

26. In view of these considerations, the Secretary General asks the Chair to reject the request for a stay of execution as unfounded.

27. In his observations in reply, the applicant notes that the arguments of the Secretary General mean that the stay of execution should not apply to recruitment procedures. He considers that his request is well-founded. He observes that the urgency is not disputed by the Secretary General. He reiterates that the harm he would suffer, if the recruitment process is not suspended, is both serious and irreparable.

28. The applicant gives details about his accumulated experience and argues that he fulfils all the requirements for the job. He notes that the Secretary General does not contest his contention that the advertised job represents a rare opportunity for promotion.

29. He maintains that if the recruitment process continues and another candidate is appointed, he will be permanently deprived of the opportunity to be fairly considered for this post as an internal candidate, in line with the current staff regulations. Such harm cannot be remedied by compensation, as it would result in the loss of a unique career opportunity, professional advancement and reputational standing within the Organisation. The irreversibility of the appointment process means that any subsequent remedy would be ineffective, and the purpose of the appeal would be defeated.

30. As a candidate in an external recruitment procedure, which, in his view, should have been dealt with internally, he argues that having to compete with a higher number of candidates has unfairly decreased his career prospects and legitimate expectations as a staff member of the Organisation. The applicant points out that the only reason advanced to him in the standard rejection email he received was the high number of applications (see paragraph 4 above). He considers that the Secretary General can hardly complain about having received “too many applications” when he put himself in that very position by opting for an external recruitment process.

31. The applicant considers that the organisation of an external recruitment procedure for A4/A5 posts is not provided for in the current Staff Regulations. The systematic recourse to such procedures constitutes a circumvention of the staff regulations and deprives him of the individual protection afforded to him as a staff member of the Organisation.

32. The applicant disputes the Secretary General’s assertion that in the balance of the Organisation’s interest in ensuring the proper functioning of the services and his interests as a candidate in a recruitment procedure, the former should prevail. He observes that the job in question remained vacant for several months following the promotion of the previous incumbent in summer 2025. In his view, that circumstance contradicts the Secretary General’s argument that the job cannot remain vacant for several more months without adversely affecting the smooth running of services.

33. The applicant therefore maintains his request for a stay of execution as a necessary means to preserve the effectiveness of the appeal process and to ensure that the principles of fairness and due process are upheld.

34. In his rejoinder, the Secretary General notes that the assessment of the applicant’s professional experience was based on the information that the applicant himself provided in his job application form. It would be unfair in respect of other applicants and impossible for the DHR, who received over 14,000 job applications in 2025, to seek additional information about a candidate from additional sources. As the applicant failed to demonstrate professional experience “*acquired in different legal fields falling under the remit of the committee, in particular the system of the European Convention on Human Rights or other relevant Council of Europe treaties*”, he was not among the candidates who were considered to best meet the requirements of vacancy notice No. 1246/2026, and this assessment was not vitiated by a material error.

35. The Secretary General further maintains that the process of selecting candidates does not depend on whether the competition is internal or external as paragraph 560.2 of the Staff Rule on career development provides that also an internal procedure involves the shortlisting

of candidates “*whose applications demonstrate the best profiles*”. Furthermore, the Staff Regulations do not oblige to conduct A4/A5 competitions internally.

36. The Secretary General repeatedly stresses that the applicant cannot claim that he has been deprived of the opportunity to be fairly considered for the job in question and thus to have suffered any prejudice, as his application was carefully considered, with the result that he was not retained among the best candidates.

III. THE CHAIR’S ASSESSMENT

37. Under Article 14.8 of the Staff Regulations, the Administrative Tribunal may be asked to suspend the implementation of an administrative decision in cases of particular urgency, where its execution would give rise to serious and irreparable damage. The Tribunal may stay the contested decision only where both conditions, namely particular urgency and serious and irreparable damage, are satisfied.

Particular urgency

38. With regard to the requirement of particular urgency, the Chair notes that the decision not to shortlist the applicant was notified to him on 30 March 2026 and that the applicant’s request for a stay of execution was lodged on 16 April 2026, two days after the introduction of his formal complaint against the decision in question. The recruitment process has since progressed and it can be reasonably assumed that a decision on the appointment of the successful candidate to the job at issue is likely to be taken imminently. The Secretary General himself has underlined the importance of this competition for the proper functioning of the Parliamentary Assembly and the committee concerned.

39. In light of these circumstances, the Chair considers that the urgency requirement is satisfied in the present case - an assessment which, moreover, does not appear to be contested by the Secretary General.

Serious and irreparable damage

40. As regards the requirement of serious and irreparable damage, the Chair notes that in the present case, the prejudice relied upon by the applicant relates to his interest as a candidate in being fairly considered for a job for which he claims to be qualified. The Secretary General, for his part, contests the existence of such a prejudice on the ground that the applicant was not among the best candidates, and could therefore not be shortlisted for the assessment stage.

41. The Chair notes that the applicant was able to apply for the job in question and his application was considered. According to paragraph 490.1 of the Staff rule on entry into service candidates who meet the criteria set out in the vacancy notice and whose applications demonstrate the “*best profile*” shall be shortlisted for the assessment stage. The determination that the applicant was not among the best candidates depended on an assessment of his experience and a comparison with the other candidates. Whether that determination could be considered arbitrary or manifestly unreasonable cannot be established without looking into the merits of the applicant’s grievances. However, Article 12.2 of the Statute of the Tribunal clearly states that the Chair’s decision on the request for a stay of execution “*shall not rule on the merits of the appeal or the complaint*”.

42. The said provision does not preclude the Chair from considering that the reasons relied upon by the applicant in support of his claim of prejudice cannot be viewed as devoid of seriousness. The Chair therefore considers that the applicant can *prima facie* sustain that, by not being selected for the assessment stage, he suffers a prejudice which may trigger a stay of execution.

43. As to the serious character of the alleged prejudice, the Chair observes that the applicant is a serving staff member at grade A3 with over two decades of professional experience within the Council of Europe. The applicant maintains that the contested decision deprives him of a unique or rare opportunity for professional advancement within the Organisation. The Secretary General does not provide any elements to the contrary, beyond maintaining that the applicant did not qualify under the terms of the vacancy notice, and he does not specifically contest the applicant's contention that the advertised job represents a rare opportunity for promotion.

44. As to the irreparable nature of the alleged damage, the Chair considers that in the particular circumstances of the present case the loss of the job opportunity may give rise to a prejudice that could not be adequately remedied by financial compensation (ATCE, request for a stay of execution No. 3/2025, S. G. v. Secretary General of the Council of Europe, [order of 10 June 2025](#), §§ 28 and 29). Furthermore, it appears that reinstatement in the selection procedure would no longer be feasible even if an appeal on the merits were to be upheld (ATCE, request for a stay of execution No. 2/2026, S. G. (II) v. Secretary General of the Council of Europe, [order of 2 March 2026](#), § 34).

45. In light of the foregoing, the Chair finds that the implementation of the contested decision, combined with the risk that the job may be filled before the applicant's claims are adjudicated, would result in serious and irreparable damage for the applicant. Therefore, the Chair will proceed with the remaining question of whether such risk of serious and irreparable damage warrants the suspension of the contested decision.

Balance of interests

46. The Chair recognises the need to balance the interests of the applicant against those of the Organisation in ruling on the present request.

47. In this respect, he notes that the focus of the applicant's grievances is on the external nature of the recruitment procedure which increased the number of job applicants, thus diminishing his chances to be shortlisted. In this respect, he referred to a previous competition to the same post that was internal and in which he reached the stage of the interview (see paragraphs 12 and 13 above). The Secretary General, in turn, points to the fact that 12 out of the 13 shortlisted candidates were staff members. The Chair considers that these figures provide a relevant context for the applicant's individual grievances.

48. The Secretary General further contends that suspension of the contested decision would entail disproportionate adverse effects for the Organisation and the service concerned. He argues that allowing the applicant to participate in the further stages of the competition would imply that all other candidates in a similar situation would also have to be shortlisted. This would lead to a significant increase in the number of shortlisted candidates as well as hindrance to the recruitment procedure which would require more time and human resources in the assessment stage (see paragraphs 19 to 23 above)

49. The Chair considers that in the light of the arguments advanced by the parties and the particular circumstances of the present case as to the possible implications of a stay of execution of the contested decision, especially for the Organisation, the request for a stay of execution must be dismissed.

50. This conclusion is without prejudice to the Tribunal's decision on the merits of the case or to the applicant's ability to refer during the contentious proceedings to any harm he might suffer as a result of the execution of the contested decision and, if successful, to seek compensation for such harm.

For these reasons,

Ruling in accordance with Article 14.8 of the Staff Regulations, Article 12 of the Statute of the Administrative Tribunal and Article 20 of the Rules of Procedure,

THE CHAIR OF THE ADMINISTRATIVE TRIBUNAL

Dismisses the request for a stay of execution.

Delivered on 30 April 2026, the English text being authentic.

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens